

Morgan Ricketts (Bar No. 268892)
RICKETTS & YANG
540 El Dorado Street #202
Pasadena CA 91101
Telephone: (213) 995-3935
Facsimile: (213) 995-3963
Email: morgan@rickettsandyang.com

Attorneys for Plaintiff Chris Miller

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CHRIS MILLER,

Plaintiff,

v.

TOM BAKALY, (individual and
official capacity), SHARON PAPA
(individual and official capacity),
GEORGE BRUNN (individual
capacity), CITY OF HERMOSA
BEACH, a California municipal
corporation, HERMOSA BEACH
CHAMBER OF COMMERCE, a
California corporation, KEN
HARTLEY, an individual, and DOES 1-
100, inclusive,

Defendants.

) Case No.: 2:15-CV-8464

COMPLAINT FOR

- 1. VIOLATION OF 42 U.S.C. §
1983 (FIRST AMENDMENT)**
- 2. VIOLATION OF ARTICLE 1, §
2 OF CALIFORNIA
CONSTITUTION**
- 3. VIOLATION OF CALIFORNIA
CIVIL CODE § 52.1(j)**
- 4. INTENTIONAL
INTERFERENCE WITH
PROSPECTIVE ECONOMIC
ADVANTAGE**
- 5. NEGLIGENT INTERFERENCE
WITH PROSPECTIVE
ECONOMIC ADVANTAGE**
- 6. UNFAIR BUSINESS
PRACTICES**
- 7. NEGLIGENCE**

DEMAND FOR JURY TRIAL

I. JURISDICTION

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2 1. This Court has jurisdiction under 28 U.S.C. § 1331. Federal question
3 jurisdiction arises pursuant to 42 U.S.C. § 1983.
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5 2. This Court has supplemental jurisdiction over Plaintiff's state law claims
6 under 28 U.S.C. § 1367(a) because they arise under California state law, and are so
7 related to the claims arising under federal law that they form part of the same case or
8 controversy.
9

10 **II. VENUE**

11 3. Venue is proper pursuant to 28 U.S.C. § 1391 because the events giving
12 rise to this Complaint happened in the Central District.
13

14 **III. PARTIES**

15 4. Plaintiff Chris Miller ("Plaintiff" or "Miller") is a resident of Los Angeles
16 County, California.
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18 5. On information and belief, Defendant Tom Bakaly is a resident of the State
19 of California and the City Manager of Defendant City of Hermosa Beach. Defendant
20 Bakaly is the administrative head of the government of the City. He has the authority and
21 duty to enforce all laws and ordinances; he has the authority to control, order, and give
22 directions to all heads of City departments and to subordinate officers and City
23 employees, including the City Clerk. Defendant Bakaly is sued in his personal and
24 official capacity.
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1 6. On information and belief, Defendant Sharon Papa is a resident of the State
2 of California and the Chief of Police for the City of Hermosa Beach. Defendant Papa is
3 sued in her personal and official capacity.
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5 7. On information and belief, Defendant City of Hermosa Beach (“the City”)
6 is a municipal corporation organized and existing under the laws of the State of
7 California, which is approximately one square mile in size and which has a population of
8 approximately 19,000.
9

10 8. On information and belief, Defendant Hermosa Beach Chamber of
11 Commerce (“Chamber”) is a corporation organized and existing under the laws of the
12 State of California.
13

14 9. On information and belief, Defendant Ken Hartley is a resident of the State
15 of California, the President of Defendant Hermosa Beach Chamber of Commerce, and a
16 former volunteer reserve police officer with the Hermosa Beach Police Department.
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18 10. At all times relevant to this action, Defendants Bakaly and Papa were
19 employed by the City of Hermosa Beach as policy-making officials and are sued in their
20 individual and official capacities.
21

22 11. Plaintiff is informed and believes and thereon alleges that at all times
23 mentioned below, each Defendant was the principal, agent, representative, partner, or co-
24 conspirator of the remaining Defendants, and each other, and that in doing the acts
25 alleged, each of the Defendants were acting within the course and scope of their agency,
26 employment, partnership, conspiracy, or other authorized relationship with the other
27 Defendants and with the permission and ratification of Defendants. Whenever and
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1 wherever reference is made in this Complaint to any acts of Defendants, such allegations
2 and references shall also be deemed to mean the acts of each Defendant acting
3 individually, jointly or severally. The Defendants were engaged in a conspiracy to
4 violate Plaintiff's constitutional and other rights, and were acting as co-conspirators with
5 that aim in mind. In committing the acts herein alleged, the individual Defendants
6 Brunn, Papa, Bakaly, and Hartley, and Defendant Hermosa Beach Chamber of
7 Commerce, acted knowingly, maliciously, and with reckless or callous disregard for
8 Plaintiff's constitutional and other rights, which justifies an award of punitive damages
9 under California law against each individual Defendant and the Defendant Hermosa
10 Beach Chamber of Commerce.
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14 **IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

15 12. Plaintiff timely filed claims with Defendant City of Hermosa Beach
16 pursuant to California Government Code § 810 et seq. The claims were denied by
17 operation of law. Plaintiff has exhausted all administrative remedies available to her.
18

19 **V. STATEMENT OF FACTS**

20 **A. Background: Measure O**

21 13. In 2012, E&B Natural Resources, an oil company, purchased rights to drill
22 for offshore oil in Hermosa Beach. To allow E&B to drill, however, the city needed to
23 lift a municipal ban on oil drilling. The proposal to lift the ban was fiercely contested by
24 Hermosa Beach residents and other concerned citizens, and ultimately the decision was
25 put to a vote in the form of Measure O, which was on the March 3, 2015 ballot.
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1 14. Beginning in 2012, a number of concerned citizens mobilized to prevent oil
2 drilling in Hermosa Beach, believing it would be harmful for property values, the
3 environment, and the city as a whole. The campaign was known as “Keep Hermosa
4 Hermosa,” a reference to keeping the city beautiful. The activists spent hundreds of
5 hours over the course of three years working to defeat the measure, including by
6 attending city council meetings, reviewing thousands of pages of documents regarding
7 the environmental studies about the proposed drilling, assisting the city of Hermosa
8 Beach with a legal battle against E&B, hosting events and designing advertisements that
9 would raise local awareness about the negative effects of oil drilling, fundraising, and
10 more.
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14 15. Hermosa Beach has a police department comprised of under 50 police
15 officers. On information and belief, none of those police officers live in Hermosa Beach.
16 On information and belief, a majority of those police officers are members of a union, the
17 Hermosa Beach Police Officers Association, which has taken the position that salaries
18 and benefits for Hermosa Beach police officers are not competitive with those of other
19 nearby beach cities. Prior to the March 3 ballot, the union issued a statement and
20 advertisements in support of Measure O, in an attempt to paint the measure as important
21 for public safety because of the need for increased city funds. On information and belief,
22 the union publicly supported Measure O because it believed that if Measure O passed, the
23 city would have a significant source of revenue from the oil drilling with which to raise
24 salaries and benefits for police officers.
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1 16. The campaign against Measure O was successful in terms of high visibility
2 and sustained momentum against Measure O, and ultimately, on March 3, 2015, Hermosa
3 Beach voters overwhelmingly defeated Measure O (79% against to 21% in favor). The
4 activists against Measure O, who had been devoting thousands of unpaid hours since
5 2012 to defeating the measure, gathered on the night of March 3, 2015, to celebrate their
6 victory at The Standing Room, a local restaurant on Hermosa Avenue in Hermosa Beach.
7 Throughout the night, the activists watched the election results coming in on live
8 television at the Standing Room, and good-naturedly chanted their rallying cry, “No on
9 O!” together whenever a precinct reported another victory at the polls. Those present
10 included upstanding members of the Hermosa Beach community, including current and
11 former city councilmembers, as well as the children of activists. On information and
12 belief, the celebration was entirely appropriate and civil, and there were no known
13 instances of violence, physical conflict, or profanities that evening at the Standing Room.

14 17. The Standing Room is a small to mid-size restaurant, with a patio that looks
15 out onto Hermosa Avenue and booths and tables inside. On Hermosa Avenue directly in
16 front of the Standing Room, the opposing lanes of traffic are separated by a traffic island
17 with planting space for landscaping.

18 **B. Background: Chris Miller**

19 18. Plaintiff was born and raised in Hermosa Beach. Her father, Warren Miller,
20 owned substantial retail space on Pier Avenue, Hermosa’s main street, where his
21 business, Warren Miller Entertainment, was headquartered and produced over 500 films.
22 Plaintiff attended schools in Hermosa Beach and although she no longer resides in the
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1 city, she has remained actively involved with the Hermosa Beach community for over
2 fifty years. She has helped to produced six films on the history of Hermosa Beach; for
3 eight years, she served on the Board of Directors of the Hermosa Beach Historical
4 Society; she fundraised for, commissioned, and designed Hermosa's first mural; and she
5 chaired the Centennial Dinner in 2007. She has been formally recognized by the
6 Hermosa Arts Foundation for her contributions to the community, and received an
7 Honorary Citizen award from then-mayor Michael Keegan for her lifelong commitment
8 to the city.
9

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11 19. Plaintiff is a professional photographer. For nearly twenty years, Plaintiff
12 was a salaried employee at The Beach Reporter, a community newspaper. Starting in
13 2012 through March 3, 2015, she was an independent contractor for the Beach Reporter,
14 and would receive calls on a weekly basis or nearly weekly basis to cover various events
15 such as city council meetings, holiday celebrations, business grand openings, and other
16 notable or newsworthy events in the Hermosa Beach community. Plaintiff also does
17 photography work for private clients on an as-needed basis.
18

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20 20. Prior to March 3, 2015, Plaintiff was casually acquainted with Defendant
21 Bakaly, Defendant Papa, and Defendant Hartley through her involvement in the city of
22 Hermosa Beach. Plaintiff was also known to the Chamber of Commerce prior to March
23 3, 2015, as she was a member and was sworn in as a Director of the Board on January 1,
24 2015.
25

26
27 21. Starting in 2012, Plaintiff was active in the movement to defeat Measure O.
28

C. False Police Report and Subsequent Events

1 22. On the night of March 3, 2015, an activist parked his truck on Hermosa
2 Avenue in front of the Standing Room, on the other side of the traffic island, on
3 information and belief because he could not find parking and wanted to attend the
4 celebration for the defeat of Measure O. The truck was carrying an electronic billboard
5 programmed to display anti-Measure O messages, including “No on O” and “Pack it up
6 E&B.” At the location where the activist parked the truck, the messages were visible to
7 many of the celebrating activists in the Standing Room, particularly those who were on
8 the patio. Plaintiff could see the messages from where she was standing on the patio.
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11 23. At some point during the evening of March 3, 2015, Plaintiff briefly left the
12 Standing Room patio to take photographs of the celebrating activists, and then returned to
13 the patio. At no time was she approaching anyone outside of the Standing Room; she
14 only left to get a better angle for her photographs. No one else was with her when she did
15 so, and she was only outside of the patio for a brief time before returning. She returned
16 of her own volition and without any prompting or physical contact by any other person.
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19 24. At some point that evening around 10:00 p.m., a Hermosa Beach city
20 employee, Tony Papandrea, arrived to ticket the truck for parking in the street, and the
21 owner of the truck went out to speak with Papandrea. At that time, it was fairly dark out
22 except for the lights of businesses and streetlights.
23

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25 25. While Papandrea was in the process of writing the ticket, Plaintiff and
26 others were still celebrating. After another chant of No on O, Plaintiff called out from the
27 patio of the Standing Room something to the effect that there would be no pay raises,
28 “too bad!” As part of those comments, Plaintiff also stated “Pack up, you guys, you

1 lost!” Plaintiff was referring generally to E&B and to supporters of Measure O, and not
2 to the Hermosa Beach Police Department. No reasonable listener would have thought she
3 was addressing the police specifically with her comments, although they could have
4 reasonably concluded that she was making these statements to Papandrea, who was
5 neither a police officer nor affiliated with the police department.
6

7 26. Unbeknownst to Plaintiff at the time of her comments, a Hermosa Beach
8 police officer, Defendant George Brunn, was nearby, several yards behind the activist’s
9 truck on the opposite side of the street, on the other side of the traffic island’s
10 landscaping, where Plaintiff did not see him.
11

12 27. On information and belief, Defendant Brunn was upset that Measure O was
13 defeated at the polls. On information and belief, Defendant Brunn heard the No on O
14 chants and, without knowing who Plaintiff was, decided to punish her for her comments
15 critical of Measure O. He noticed that Plaintiff was talking to Kathy Dunbabin, an
16 individual he knew. He waited until Dunbabin left the party, then approached her and
17 asked her who she had been talking to. Dunbabin spoke to him for some period of time
18 letting him know various things about who Plaintiff was, including her name and the fact
19 that her father was Warren Miller of Warren Miller Entertainment.
20

21 28. On information and belief, prior to leaving his shift that evening, Defendant
22 Brunn falsely reported to his watch commander that Plaintiff had yelled taunts about the
23 Hermosa Beach Police Department at him, including the words, “Fuck the police,” and
24 encouraged others on the patio to do the same, resulting in a crowd chanting “Fuck the
25 police” at Defendant Brunn from the Standing Room patio. On information and belief,
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1 Defendant Brunn also falsely reported to his watch commander that an unknown male
2 had physically guided Plaintiff back to the Standing Room from the street at some point
3 in an effort to calm the situation. Defendant Brunn also falsely claimed he recognized
4 Plaintiff from city events, instead of honestly reporting that he had had to find out who
5 she was from Kathy Dunbabin.
6

7 29. On information and belief, Defendant Brunn's watch commander relayed
8 Defendant Brunn's report to the Chief of Police, Defendant Sharon Papa, without
9 investigating Defendant Brunn's comments further.
10

11 30. On information and belief, Defendant Papa knew that Defendant Brunn's
12 police car was equipped with a dashboard camera, but did not view the footage or
13 otherwise investigate Defendant Brunn's story before contacting Defendant Ken Hartley,
14 the President of Defendant Hermosa Beach Chamber of Commerce, to complain about
15 Plaintiff and the alleged incident on March 6, 2015. On information and belief,
16 Defendant Papa and Defendant Hartley then conspired to retaliate against Plaintiff for
17 vocally opposing Measure O, and thus deny her the First Amendment right to criticize
18 and express her opinion on matters of political importance.
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22 31. On March 6, 2015, after his conversation with Defendant Papa, but without
23 conducting any investigation or attempting to confirm what he had heard from her,
24 Defendant Hartley called Plaintiff and demanded she submit a written apology for her
25 statements.
26

27 32. On information and belief, Defendant Hartley supported Measure O, and is
28 personally offended by opponents of Measure O, to the point of engaging in unreasonable

1 and dangerous behavior. On information and belief, on one occasion, an opponent of
2 Measure O saw that a pro-Measure O yard sign was displayed prominently at Defendant
3 Hartley's home, and yelled, "Sellout!" from his car as he drove past the house.
4
5 Defendant Hartley got into his own car, sped to catch up with the Measure O opponent,
6 and screamed obscenities from his car at the opponent, and challenged him to fight. On
7 information and belief, on another occasion, Defendant Hartley made a citizen's arrest of
8 another Hermosa Beach resident for "littering" and refused to accept an apology, when
9 all the resident had done was leave "No on O" flyers on Defendant Hartley's property.
10
11 On information and belief, Defendant Hartley's personal animosity towards the
12 opponents of Measure O motivated him to conspire with the other Defendants to punish
13 Plaintiff for opposing Measure O.
14

15 33. Also on March 6, 2015, the Hermosa Beach Police Department directed
16 Defendant Brunn to prepare a written report of the events of March 3, 2015, on
17 information and belief, in order to create a paper trail that would assist in retaliating
18 against Plaintiff and to help justify to other Hermosa Beach citizens the retaliatory
19 behavior that the Chief and the Chamber planned to engage in.
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21

22 34. On or about March 8, 2015, Plaintiff called Defendant Papa and requested
23 to be allowed to review the report and any video of the incident so that she could more
24 clearly recall what she might have done to upset Defendant Brunn on the night of March
25 3, 2015. Defendant Papa refused to release any such documents to Plaintiff.
26

27 35. On March 11, 2015, Defendant Brunn and Tony Papandrea submitted
28 written reports about what had happened. Defendant Brunn's report stated that Plaintiff

1 not only identified the Hermosa Beach Police Department by name, but that she
2 “encouraged many patrons on the patio of the Standing Room to join in yelling ‘Fuck the
3 police.’” Contrary to his initial report to the watch commander, Defendant Brunn’s
4 written report did not allege that Plaintiff had actually used the words “Fuck the police.”
5 By contrast, Papandrea’s report omitted any mention of the police department, the words
6 “Fuck the police,” or any chant by the crowd. Papandrea’s report alleged that Chris
7 Miller said “there go your fucking raises,” whereas Defendant Brunn’s stated she had
8 merely said, “there go your raises.” Despite these significant contradictions between
9 Defendant Brunn and Papandrea’s reports, and the inconsistencies between Brunn’s
10 initial oral report and his later written report, no one at the Hermosa Beach Police
11 Department attempted to view the dashboard camera footage or otherwise investigate the
12 story further, on information and belief because their purpose was to punish Plaintiff.
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17 36. On March 11, 2015, Defendant Papa called Plaintiff to demand a written
18 apology, claiming that Plaintiff no longer had freedom of expression because she now
19 was a Director of the Board of the Chamber.
20

21 37. On March 18, 2015, Defendant Hartley, in his capacity as President of the
22 Chamber, issued a formal written reprimand to Plaintiff and placed her on twelve
23 months’ probation, based on her having stated to a Hermosa Beach police officer that he
24 was not getting a raise, and causing others to join in her statements. Defendant Hartley’s
25 letter also demanded that Plaintiff prepare a written apology to the police department and
26 state that her personal opinions in no way represented the Chamber.
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1 38. On March 20, 2015, Plaintiff submitted a letter to the Hermosa Beach
2 Police Department explaining that she had merely expressed her personal opinion on
3 March 3, 2015, and was not speaking on behalf of the Chamber at the time. However,
4 Plaintiff did not apologize, as she had done nothing wrong, and had not made the
5 statements she was accused of making.
6

7 39. On information and belief, after Plaintiff submitted her letter, Defendant
8 Hartley, Defendant Papa, and Defendant Bakaly discussed it and were dissatisfied
9 because it contained no apology. On information and belief, all Defendants then
10 conspired to punish Plaintiff further.
11

12 40. On March 23, 2015, Defendant Papa sent a letter to the Chamber to request
13 that it address Plaintiff's conduct, and insinuated that the Chamber's businesses would
14 face retaliation if the Chamber did not cooperate. The letter was written on police
15 department letterhead, and signed "Sharon Papa, Chief of Police."
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18 41. On March 26, 2015, Plaintiff submitted a written request to the Hermosa
19 Beach City Clerk to see the relevant video and reports from the night of March 3, 2015,
20 in an effort to clear her name. The City Clerk refused, on information and belief at the
21 direction of Defendant Bakaly, in a deliberate effort to frustrate Plaintiff's efforts to clear
22 her name and rectify any misunderstandings about what she had actually said.
23

24 42. On information and belief, the same documents that both Defendant Papa
25 and Defendant Bakaly denied Plaintiff – the police reports and video – were provided to
26 the Directors of the Chamber's Board, in an attempt to convince them to vote to remove
27 Plaintiff from the Board.
28

1 43. On April 2, 2015, the Chamber held a meeting and voted unanimously to
2 remove Plaintiff from the Board if she did not apologize; if she did apologize, the
3 Chamber voted to allow her to resign from the Board instead of being removed. On
4 information and belief, the members of the Chamber's Board voted in support of
5 removing Plaintiff not because they genuinely believed there was a basis for removal, but
6 because they were in fear of losing the support of the Hermosa Beach Police Department,
7 or even becoming targets of police harassment and retaliation if they did not cooperate to
8 deprive Plaintiff of her constitutional rights, as demanded by Defendants Hartley and
9 Papa.

10 44. Plaintiff did not apologize and was removed from the Board of the
11 Chamber effective April 7, 2015.

12 45. Since March 3, 2015, the Beach Reporter has not contacted Plaintiff once to
13 give her work assignments; on information and belief, this is because of Defendants'
14 actions against Plaintiff. In addition, on at least six occasions since March 3, 2015, local
15 newspapers have published stories which repeated the defamatory statements made by
16 Defendants Bakaly and Papa and which assumed that Plaintiff made the statements
17 falsely attributed to her.

18 46. On information and belief, Defendant Tom Bakaly intentionally
19 commissioned a biased investigator, or instructed the investigator to make favorable
20 findings, in order to calm the political firestorm that erupted in Hermosa Beach as a result
21 of Defendants' treatment of Plaintiff. That investigator interviewed twenty nine
22 witnesses, many of whom had been present at the Standing Room, and all of whom
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1 denied that Plaintiff had used profanity at any time. The investigator also located the
2 dashboard camera video, which shows that Plaintiff did not use profanity and that
3 Defendant Brunn lied about the yelling of “Fuck the police.” Nonetheless, the
4 investigator concluded that Plaintiff had in fact used profanity that evening, against the
5 great weight of the evidence. On information and belief, the investigator was aware that
6 by finding that Plaintiff had used profanity, Plaintiff’s credibility would be damaged and
7 Plaintiff would suffer additional harm to her reputation, and intentionally found that
8 Plaintiff had used profanity in order to cause those things to happen. Moreover, the
9 investigator concluded that Plaintiff was “contradicted” by the evidence, because Plaintiff
10 had later asserted that her only comment related to there being no raises, and the
11 investigator concluded she had made additional statements, though trivial. However, the
12 investigator did not make any conclusions about Defendant Brunn’s credibility or lack
13 thereof, even though his version of events was flatly contradicted by Papandrea’s
14 account, which unlike Brunn’s, made no mention of the Hermosa Beach Police
15 Department, any crowd chanting, or the words “Fuck the police.”

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21 47. On information and belief, on multiple occasions, Defendant Tom Bakaly
22 insisted to third parties, including newspaper reporters, that Plaintiff is guilty of using
23 profanity and that the Chamber was right to hold her accountable for her “inappropriate”
24 behavior by telling the police they would not get raises. On information and belief, he
25 also targeted Plaintiff because of her statement that someone was not getting a raise, and
26 ordered further investigations into her conduct solely because of that statement, in an
27 attempt to punish and discredit her. Finally, on information and belief, Defendant Bakaly
28

1 purposely declined to use his authority over City employees to intervene in the unlawful
2 course of events that led to serious damages to Plaintiff, and was motivated by a desire to
3 punish Plaintiff in doing so.
4

5 48. On information and belief, once it became clear that Plaintiff had not
6 shouted any obscenities to the police nor led anyone to yell "Fuck the police," Defendant
7 Bakaly and Papa conspired to take steps to cover up that fact, including by refusing to
8 release public records that proved her innocence, covering up the existence of the dash
9 cam video, hiring a biased investigator to create a false paper trail justifying the city's
10 actions with respect to Plaintiff, and by making deliberately false statements to media
11 outlets in an attempt to paint Plaintiff as a troublemaker and destroy her reputation and
12 credibility.
13
14

15 **D. Monell Claim**
16

17 49. The City of Hermosa Beach maintains a policy, practice, and/or custom of
18 unlawfully retaliating against those who criticize the City or its departments, particularly
19 the police.
20

21 50. The violation of constitutional and/or statutory rights herein complained of
22 resulted from a policy, practice, and/or custom of the City and was directed, approved
23 and/or ratified by City Manager Defendant Tom Bakaly, and Chief of Police Defendant
24 Sharon Papa. Bakaly and Papa are policymakers for the City. Each of these individuals
25 were present for the execution of the policy, practice, and/or custom. Moreover, on
26 information and belief, Defendant Papa advised Defendant Bakaly in advance of the plan
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28

1 to retaliate against Plaintiff by writing a letter to Defendant Chamber in an effort to have
2 Plaintiff removed from the Board, and Defendant Bakaly approved that plan in advance.

3
4 **E. Damages Sustained As Result of Defendants' Conduct**

5 51. Since the events of March 3, 2015, Plaintiff has not been offered any work
6 for the Beach Reporter and her income has decreased as a result.

7 52. Since March 3, 2015, the damage to Plaintiff's reputation has resulted in
8 fewer private clients hiring her for photography jobs. Her income has decreased as a
9 result.
10

11 53. Since March 3, 2015, Plaintiff has suffered extreme stress, nightmares,
12 tearfulness, panic attacks, and other emotional distress caused by Defendants' unlawful
13 conduct.
14

15 54. Plaintiff has lost her position on the Board of Directors of the Chamber of
16 Commerce, which would have provided her with potential business opportunities and
17 greater publicity for her work.
18

19 55. Plaintiff has lost the ability to go to her hometown, which she loves,
20 without re-experiencing the stress and trauma caused by Defendants.
21

22 56. Plaintiff's reputation has been damaged irretrievably by the actions of all
23 Defendants. Numerous comments to the articles published by the Beach Reporter show
24 that many citizens believe Plaintiff in fact did yell "Fuck the police" and deserves to be
25 punished for it. This loss of reputation has resulted in emotional distress and economic
26 loss for Plaintiff.
27
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V. CLAIMS

FIRST CLAIM FOR RELIEF

(Violation of Civil Rights – 42 U.S.C. § 1983)

(First Amendment – Against All Defendants)

57. Plaintiff realleges and incorporates by reference herein each and every allegation set forth in paragraphs 1 through 56.

58. By their conduct, Defendants retaliated against Plaintiff based on her exercise of rights protected by the First Amendment to the United States Constitution, which deprived her of those rights.

59. At all relevant times, Defendants Bakaly, Papa, and Brunn acted under color of law.

60. At all relevant times, Defendant Chamber and Defendant Hartley conspired with the Defendant City of Hermosa Beach, acting by and through Defendants Bakaly, Papa, and Brunn, to harm Plaintiff, by actively discussing with each other what steps they could take to force Plaintiff to apologize publicly for challenging the police and how to punish her if she did not comply with their demands.

61. After the initial police report, which was both false and lacking in any legally significant facts, Defendants did not make any attempt to either verify the allegations or determine whether there was any legal justification for taking actions adverse to Plaintiff, yet took such actions against her including investigation of her conduct, harassing her for an apology she was not required to make, causing her to be removed from the Board of the Chamber, preventing her from being hired to work for the

1 Beach Reporter, and making false and disparaging defamatory statements about her to
 2 third parties.

3 62. Defendants, acting in their individual capacities, unreasonably and
 4 unlawfully retaliated against Plaintiff for exercising her First Amendment right to
 5 associate and to speak her opinion on matters of political significance.
 6

7 63. Defendants' conduct deprived Plaintiff of her rights, also causing her
 8 damages in an amount to be proven at trial.
 9

10 64. Plaintiff is entitled to recover her costs and reasonable attorney's fees
 11 incurred in prosecuting this claim for relief.
 12

13 65. At all relevant times, each Defendant was the agent or employee of the
 14 remaining Defendants, and in doing the acts alleged, each of the Defendants were acting
 15 within the course and scope of their agency or employment, or other authorized
 16 relationship with the other Defendants and with the permission and ratification and active
 17 support and conspiracy of the other Defendants.
 18

19 66. Defendants' unlawful actions were done willfully, maliciously, and with
 20 the specific intent to deprive Plaintiff of her rights under the Constitution of the United
 21 States. They were also done with malice, fraud, and oppression, entitling Plaintiff to
 22 punitive damages against all Defendants except Defendant City of Hermosa Beach, as
 23 provided by law.
 24
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26 **SECOND CLAIM FOR RELIEF**

27 **(Violation of Civil Rights – Article I, § 2 CALIFORNIA CONSTITUTION)**

28 **(Free Speech – Against All Defendants)**

1 67. Plaintiff realleges and incorporates by reference herein each and every
2 allegation set forth in paragraphs 1 through 66.

3 68. By their conduct, Defendants retaliated against Plaintiff based on her
4 exercise of rights protected by Article 1, § 2 of the California Constitution, which
5 deprived her of those rights.
6

7 69. At all relevant times, Defendants Bakaly, Papa, and Brunn acted under
8 color of law.
9

10 70. At all relevant times, Defendant Chamber and Defendant Hartley conspired
11 with the Defendant City of Hermosa Beach, acting by and through Defendants Bakaly,
12 Papa, and Brunn, to harm Plaintiff, by actively discussing with each other what steps they
13 could take to force Plaintiff to apologize publicly for challenging the police and how to
14 punish her if she did not comply with their demands.
15

16 71. After the initial police report, which was both false and lacking in any
17 legally significant facts, Defendants did not make any attempt to either verify the
18 allegations or determine whether there was any legal justification for taking actions
19 adverse to Plaintiff, yet took such actions against her including investigation of her
20 conduct, harassing her for an apology she was not required to make, causing her to be
21 removed from the Board of the Chamber, preventing her from being hired to work for the
22 Beach Reporter, and making false and disparaging defamatory statements about her to
23 third parties.
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1 72. Defendants, acting in their individual capacities, unreasonably and
2 unlawfully retaliated against Plaintiff for exercising her First Amendment right to
3 associate and to speak her opinion on matters of political significance.
4

5 73. Defendants' conduct deprived Plaintiff of her rights, also causing her
6 damages in an amount to be proven at trial.

7 74. Plaintiff is entitled to recover her costs and reasonable attorney's fees
8 incurred in prosecuting this claim for relief.
9

10 75. At all relevant times, each Defendant was the agent or employee of the
11 remaining Defendants, and in doing the acts alleged, each of the Defendants were acting
12 within the course and scope of their agency or employment, or other authorized
13 relationship with the other Defendants and with the permission and ratification and active
14 support and conspiracy of the other Defendants.
15

16 76. Defendants' unlawful actions were done willfully, maliciously, and with
17 the specific intent to deprive Plaintiff of her rights under the California constitution.
18 They were also done with malice, fraud, and oppression, entitling Plaintiff to punitive
19 damages against all Defendants except Defendant City of Hermosa Beach, as provided by
20 law.
21

22
23 **THIRD CLAIM FOR RELIEF**

24 **(Bane Act Violation – Cal. Civ. Code § 52.1(j))**

25 **(Defendant Papa, personal and individual capacity)**

26
27 77. Plaintiff realleges and incorporates by reference herein each and every
28 allegation set forth in paragraphs 1 through 76.

1 78. Defendant Papa interfered with Plaintiff's exercise and enjoyment of rights
2 guaranteed to Plaintiff under the United States Constitution and the California
3 Constitution and other laws, through the use of threats, intimidation, or coercion directed
4 against the Chamber of Commerce. Defendant Papa did so by threatening problems
5 between the Chamber members and her police department. Because police officers carry
6 weapons, that could reasonably have been interpreted as a threat of violence against the
7 Chamber members or their property, including their businesses.
8
9

10 79. Defendant Papa, as Hermosa Beach's Chief of Police, had the apparent
11 ability to carry out her threat of creating problems for the members of the Chamber with
12 the police officers employed by Hermosa Beach.
13

14 80. Defendant Papa's conduct deprived Plaintiff of her rights, also causing her
15 damages in an amount to be proven at trial.
16

17 81. Plaintiff is entitled to recover her costs and reasonable attorney's fees
18 incurred in prosecuting this claim for relief.
19

20 82. At all relevant times, each Defendant was the agent or employee of the
21 remaining Defendants, and in doing the acts alleged, each of the Defendants were acting
22 within the course and scope of their agency or employment, or other authorized
23 relationship with the other Defendants and with the permission and ratification and active
24 support and conspiracy of the other Defendants.
25

26 83. Defendants' unlawful actions were done willfully, maliciously, and with
27 the specific intent to deprive Plaintiff of her statutory rights under Civil Code § 52.1.
28 They were also done with malice, fraud, and oppression, entitling Plaintiff to punitive

1 damages against all Defendants except Defendant City of Hermosa Beach, as provided by
 2 law.

3 **FOURTH CLAIM FOR RELIEF**

4
 5 **(Intentional Interference with Prospective Economic Advantage – Defendants Papa,**
 6 **Bakaly, Brunn, Hartley, and Hermosa Beach Chamber of Commerce)**

7
 8 84. Plaintiff realleges and incorporates by reference herein each and every
 9 allegation set forth in paragraphs 1 through 83.

10 85. On or before March 3, 2015, Plaintiff had an economic relationship with
 11 the Beach Reporter that likely would have resulted in further economic benefit to
 12 Plaintiff; namely, she was likely to receive more work from them.

13
 14 86. Because of her twenty year relationship with the Beach Reporter, and her
 15 casual acquaintance with Defendant Papa, Bakaly, and Hartley, and her membership in
 16 the Chamber, Defendants were aware of her relationship with the Beach Reporter.
 17

18 87. Defendants intended to harm Plaintiff, including by disrupting Plaintiff's
 19 relationship with the Beach Reporter, by discrediting her and making her politically
 20 "untouchable." Defendants did wrongfully disrupt Plaintiff's relationship with the Beach
 21 Reporter by interfering with her rights, retaliating against her, and defaming her.
 22

23 88. Plaintiff was harmed by Defendants' conduct in that the Beach Reporter
 24 decided not to hire her for further work, on information and belief, solely or substantially
 25 because of Defendants' conduct with respect to the events of March 3, 2015.
 26

27 89. At all relevant times, each Defendant was the agent or employee of the
 28 remaining Defendants, and in doing the acts alleged, each of the Defendants were acting

1 within the course and scope of their agency or employment, or other authorized
2 relationship with the other Defendants and with the permission and ratification and active
3 support and conspiracy of the other Defendants.
4

5 90. Defendants' unlawful actions were done willfully, maliciously, and with
6 the specific intent to deprive Plaintiff of her common law rights to be free of intentional,
7 wrongful interference with her prospective economic advantage. They were also done
8 with malice, fraud, and oppression, entitling Plaintiff to punitive damages against all
9 Defendants except Defendant City of Hermosa Beach, as provided by law.
10

11 **FIFTH CLAIM FOR RELIEF**

12
13 **(Negligent Interference with Prospective Economic Advantage – Defendants Papa,**
14 **Bakaly, Brunn, Hartley, and Hermosa Beach Chamber of Commerce)**

15 91. Plaintiff realleges and incorporates by reference herein each and every
16 allegation set forth in paragraphs 1 through 90.
17

18 92. On or before March 3, 2015, Plaintiff had an economic relationship with
19 the Beach Reporter that likely would have resulted in further economic benefit to
20 Plaintiff; namely, she was likely to receive more work from them.
21

22 93. Because of her twenty year relationship with the Beach Reporter, and her
23 casual acquaintance with Defendant Papa, Bakaly, and Hartley, and her membership in
24 the Chamber, Defendants knew or should have known of her relationship with the Beach
25 Reporter.
26
27
28

1 101. The Hermosa Beach Chamber of Commerce is a business; it is a California
2 corporation which charges businesses between \$200.00 and \$300.00 to join; it provides
3 advertisement opportunities through its business directory, visible on its website; it has a
4 full-time salaried staff; and hosts and supports various events promoting its member
5 businesses.
6

7 102. Membership in the Chamber provides economic benefits to local businesses
8 in the form of increased visibility and legitimacy and opportunities for promotion and
9 community involvement. Plaintiff joined the Chamber and successfully sought election
10 to the Board in order to enjoy these benefits.
11

12 103. The Chamber engaged in unfair and unlawful business practices when it
13 removed Plaintiff from its Board of Directors as punishment for her political expression.
14 Plaintiff's removal caused her to lose the benefits of her membership, for which she had
15 paid and worked for, and damaged her reputation among other members of the Chamber,
16 who might otherwise have been interested in hiring Plaintiff for photography work.
17

18 104. On information and belief, the Chamber's actions were calculated to punish
19 opponents of the police department and/or Measure O, which was not only a political
20 controversy but also an economic controversy, and ensure that opponents of the police
21 department and/or Measure O would not be permitted to govern the Chamber as directors
22 of the Board. These actions unfairly and unlawfully gave business and economic
23 advantages to Chamber members who did not express opposition to Measure O or the
24 police department.
25
26
27
28

1 105. Plaintiff is entitled to an injunction reinstating her as a Director of the
2 Board of the Chamber of Commerce.

3 106. Plaintiff is also entitled to reasonable restitution, in an amount to be proven
4 at trial.

5
6 107. At all relevant times, each Defendant was the agent or employee of the
7 remaining Defendants, and in doing the acts alleged, each of the Defendants were acting
8 within the course and scope of their agency or employment, or other authorized
9 relationship with the other Defendants and with the permission and ratification and active
10 support and conspiracy of the other Defendants.

11
12 108. Defendants' unlawful actions were done willfully, maliciously, and with
13 the specific intent to deprive Plaintiff of her statutory right to be free from unlawful,
14 unfair, or fraudulent business practices. They were also done with malice, fraud, and
15 oppression, entitling Plaintiff to punitive damages against all Defendants except
16 Defendant City of Hermosa Beach, as provided by law.

17
18
19 **SEVENTH CLAIM FOR RELIEF**

20
21 **(Negligence – Defendants Brunn, Papa, Bakaly, Hartley, City of Hermosa Beach,**
22 **and Hermosa Beach Chamber of Commerce)**

23 109. Plaintiff realleges and incorporates by reference herein each and every
24 allegation set forth in paragraphs 1 through 108.

25
26 110. Defendants' conduct described above was negligent in that Defendants took
27 actions against Plaintiff that they knew or should have known were in violation of her
28 rights and failed to exercise reasonable care in the circumstances.

1 111. All Defendants had a duty to exercise reasonable care with respect to
2 Plaintiff to ensure that Defendants did not cause unnecessary or unjustified harm to
3 Plaintiff. Defendants Brunn, Papa, Bakaly, and the City of Hermosa Beach had a
4 heightened duty to avoid infringing on Plaintiff's rights, as they are public officials and a
5 government entity, as well as a duty to hire, train, supervise, and discipline their officers
6 and employees so as not to cause harm to Plaintiff and to prevent violations of Plaintiff's
7 constitutional, statutory and common law rights.
8

9
10 112. Plaintiff was deprived of her rights, causing harm to her in the form of
11 emotional distress and the manifestation of physical symptoms, as well as economic loss
12 and damage to her reputation.
13

14 113. Defendants' negligence was a substantial factor in causing the harm to
15 Plaintiff as described.
16

17 114. At all relevant times, each Defendant was the agent or employee of the
18 remaining Defendants, and in doing the acts alleged, each of the Defendants were acting
19 within the course and scope of their agency or employment, or other authorized
20 relationship with the other Defendants and with the permission and ratification and active
21 support and conspiracy of the other Defendants.
22

23 **VI. PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff prays that this Court enter judgment in favor of Plaintiff
25 and against each Defendant on all counts, and for the following additional relief:
26

- 27 1. Award actual damages and all other damages that may be allowed under state
28 and federal law to Plaintiff in an amount to be determined at trial;

2. Award punitive damages in the amount of at least \$75,000 against Defendant Brunn; at least \$100,000 against Defendant Papa; at least \$100,000 against Defendant Bakaly; at least \$100,000 against Defendant Hartley; and at least \$100,000 against Defendant Hermosa Beach Chamber of Commerce.
3. Award Plaintiff costs and reasonable attorneys' fees pursuant to 42 U.S.C. 1988 and California Civil Code § 52.1(h);
4. Award Plaintiff costs of suit;
5. Award Plaintiff pre- and post-judgment interest as permitted by law;
6. Award Plaintiff injunctive relief;
7. Award Plaintiff reasonable restitution;
8. Award such other and further relief as the Court may deem just and appropriate.

DATED: October 26, 2015

By: /s Morgan Ricketts
Morgan Ricketts
Attorneys for Plaintiff Chris Miller

VII. DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury.

DATED: October 26, 2015

By: /s Morgan Ricketts
Morgan Ricketts
Attorneys for Plaintiff Chris Miller